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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY/DOCKET NO. | CONFIRMATION NO. |
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09/977,933

10/17/2001

Satoshi Inaba

P 284023  
TRN-98S1152-D

4031

909 7590 12/17/2002

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EXAMINER

TRINH, MICHAEL MANH

ART UNIT

PAPER NUMBER

2822

DATE MAILED: 12/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s) N .

09/977,933

Applicant(s)

INABA, SATOSHI

Examiner

Michael M Trinh

Art Unit

2822

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days ~~SIX (6) MONTHS~~ FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-34 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### Part III DETAILED ACTION

\*\*\* This office is in response to filing of the application on October 17, 2001.

\*\*\* This application is Division of parent application Serial No. 09/235,310, now U.S. Patent No 6,329,258.

It is noted Applicant remarked in the Preliminary Amendment that "Claims 15-20 are pending. Claim 15 is the sole independent claim...". However, formally request to cancel of other claims appears to be omitted by Applicant. Accordingly, the restriction requirement is repeated as follows:

#### *Election/Restriction*

- I. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
  - I. Claims 1-14, drawn to a semiconductor device, classified in Class 257, subclass 330.
  - II. Sub a) Claims 15-20, drawn to a first method for forming a semiconductor device, classified in Class 438, subclass 305.  
Sub b) Claims 21-27, drawn to a second method for forming a semiconductor device, classified in Class 438, subclass 299.  
Sub c) Claims 28-34, drawn to a third method for forming a semiconductor device, classified in Class 438, subclass 303.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). Unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by process material different than those/that of the group II invention. For example: diffusion dopants instead of ion implantation; forming source and drain regions and then forming sidewall spacers, etc.. Subgroup a), Subgroup b), and Subgroup c) inventions are distinct, each from the other because: the method of Subgroup a) is at least drawn to making the gate by patterning a gate material; while, the method of Subgroup b) is at least drawn to etching back a third insulating film and a gate material to form an etching mask; and while, the method of Subgroup c) is at least drawn to form sidewall spacers as to form mask opening on source and drain sides and etching back to form the gate

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There is no generic claim for Subgroup a), Subgroup b), and Subgroup c).

If method Group II is elected, Applicant is further required to elect either Subgroup a), Subgroup b), or Subgroup c) for consideration and examination.


Because these inventions are distinct for the reasons given above and have acquired a separate status as shown by the above different classifications and as given in the above examples, the fields of search are not co-extensive and separate examination would be required, restriction for examination purposes as indicated is proper.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trinh whose telephone number is (703) 308-2554. The examiner can normally be reached on Monday through Friday, from 9:00 Am to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amir Zarabian, can be reached on (703) 308-4905. The fax phone number for this Group is (703) 305-3432 or (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

-Oasc-

  
Michael Trinh  
Primary Examiner